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June 19, 2020

**VIA CM/ECF**

Hon. Paul G. Gardephe  
 Hon. Sarah L. Cave  
 U.S. District Court  
 For the Southern District of New York  
 Daniel Patrick Moynihan United States Courthouse  
 500 Pearl St.  
 New York, NY 10007-1312

**Re: *Dominguez v. Lowe's Home Centers, L1*  
 Joint Request to Stay Pending Appeals**

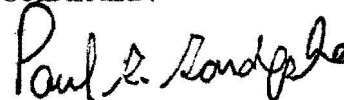
Dear Judges Gardephe and Cave:

Defendant Lowe's Home Centers LLC ("LHC") and Plaintiff Yovanny Dominguez ("Dominguez") jointly request that the Court stay this matter pending a decision by the Second Circuit in any of the following substantively identical matters:

- *Dominguez v. Banana Republic, LLC*, 1:19-cv-10171-GHW, 2020 WL 1950496 (S.D.N.Y. Apr. 23, 2020) (Dismissed and appealed to Second Circuit).
- *Calcano v. Swarovski N. Am, Ltd.*, 19-cv-10536-GHW, 2020 WL 1974143 (S.D.N.Y. Apr. 24, 2020) (Woods, J.) (Dismissed and appealed to Second Circuit).
- *Mendez v. AnnTaylor, Inc.*, 19-cv-10625-GHW, 2020 WL 1974211 (S.D.N.Y. Apr. 24, 2020) (Woods, J.) (Dismissed and appealed to Second Circuit).
- *Murphy v. Kohl's Department Stores, Inc.*, 19-cv-09921-GHW, 2020 WL 1974261 (S.D.N.Y. Apr. 24, 2020) (Woods, J.) (Dismissed and appealed to Second Circuit).
- *Thorne v. Jersey Mike's Franchise Systems, Inc.*, 1:19-cv-09934-GHW, 2020 WL 1989411 (S.D.N.Y. Apr. 27, 2020) (Woods, J.) (Dismissed and appealed to Second Circuit).
- *Calcano v. The Art of Shaving-FL, LLC*, 1:19-cv-10432-GHW, 2020 WL 1989413 (S.D.N.Y. Apr. 27, 2020) (Woods, J.) (Dismissed and appealed to Second Circuit).

On consent, this action is stayed pending resolution of the appeals in the Banana Republic, Swarovski, Ann Taylor, Kohl's, Jersey Mike's Franchise Systems, or The Art of Shaving-FL cases referenced herein. The parties are directed to file a joint status letter by September 1, 2020, or within a few days of a Second Circuit opinion, whichever occurs first.

SO ORDERED.



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 United States District Judge  
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Two of these matters involve the same named plaintiff on whose behalf the complaint was filed in this action, and all of these cases involve the same plaintiff's counsel and identical allegations and claims to those presented in this matter.<sup>1</sup>

The resolution of the above-referenced cases likely will affect the outcome of this matter. First, the allegations and claims in each case are similar or identical to the claims asserted in this case; more specifically, that Title III of the Americans with Disabilities Act and the New York State and City Human Rights Laws require retailers to provide Braille versions of their gift cards. Indeed, Plaintiff Yovanny Dominguez is the Plaintiff in the *Banana Republic* cases and, in addition to representing Mr. Dominguez in those cases, Plaintiff's attorneys here also represent the plaintiffs in each of the above-referenced matters. Second, as exemplified in LHC's pre-motion letter filed on February 24, 2020 (Doc. 10), LHC's bases for dismissal in this matter will be the same or similar to the defendants' arguments in the above-referenced matters and, in the absence of a stay, LHC intends to file a pre-motion letter that largely mirrors the defendants' arguments in those matters. Third, the plaintiffs believe these matters were wrongly decided and defendants are actively contesting the appeal; therefore, the Second Circuit's decision on this dispute likely will address and impact the merits of Plaintiff's claim in this matter.

A stay in this matter would be consistent with the proceedings in similar matters pending before Judge Gardephe involving Plaintiff's counsel, *Calcano v. Best Buy Co., Inc.*, 1:19-cv-11467-PGG-OTW and *Tucker v. Abercrombie & Fitch Co.*, 1:19-cv-10032-PGG-OTW. On May 27, 2020, the parties in *Best Buy* requested a stay of the matter for similar reasons to those asserted in this request, and the Court granted the stay on June 5, 2020 until the resolution of the appeals in either *Banana Republic* or *Swarovski*. (See 1:19-cv-11467-PGG-OTW, Doc. 23.) Similarly, in *Tucker*, the case was stayed in light of the motions to dismiss in similar matters.

Accordingly, the parties believe there is good cause to stay this matter pending the resolution of the issues presented in this case by the Second Circuit. The parties therefore request that the Court enter an order staying all deadlines and other proceedings in this case until the Second Circuit renders a decision addressing the claims asserted in this matter.<sup>2</sup>

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<sup>1</sup> In addition to these matters, the identical claims are in front of Judge Gardephe in *Dominguez v. Foot Locker, Inc.*, 1:19-cv-10628-PGG-SDA (Report and Recommendation ("R&R") to dismiss issued on May 12, 2020; Objections to R&R currently before Judge Gardephe) and were recently dismissed in four substantively identical matters in front of Judge Lorna G. Schofield: *Dominguez v. Taco Bell Corp.*, No. 1:19-cv-10172 (S.D.N.Y.); *Lopez v. Darden Restaurants, Inc.*, No. 1:19-cv-9888 (S.D.N.Y.); *Calcano v. Vineyard Vines, LLC*, No. 1:19-cv-11228 (S.D.N.Y.); and *Lopez v. Williams-Sonoma Stores, Inc.*, No. 1:19-cv-11770 (S.D.N.Y.).

<sup>2</sup> The parties address this letter to both Judges Gardephe and Cave because the request for a stay will affect both the motion to dismiss deadline, which is to be submitted to Judge Gardephe, and all other scheduling, which Judge Gardephe has referred to Judge Cave. See Doc. No. 5 (referring matter to Judge Cave for "general pre-trial, including scheduling, discovery, non-dispositive pre-trial motions, and settlement") and Doc. No. 20 (directing that any motions to dismiss must follow Judge Gardephe's pre-motion conference requirement).

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Respectfully submitted,

*/s/ Adam T. Simons*

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**CONSENTED TO BY:**

*/s/ Bradly Marks (with permission)*

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